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CERTIFICATE OI Applicant(s): Dean, et		PRESS MAIL" (37 CFR 1.10)	 	cket No. Vision-002
Application No.	Filing Date 23 March 2004	Examiner Nasser Ahmad	Customer No. 021897	Group Art Unit
Invention: AUG 1 3 2007	mproved Retail Merchand	lising Strip and Method for Making Sa	nme	
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In Re Application	Of: Dean, et al.				
Application No.	Filing Date 23 March 2004	Examiner Nasser Ahmad	Customer No. 021897	Group Art Unit	Confirmation No.
New and I	nproved Retail Mercl	handising Strip and Method for COMMISSIONER FOR PAT			
Appeal Brief to I Claims Appendin Evidence Append Exhibits A - D.	; \Up in the amou press Mailing (EV 68 Board of Patent Appel x; dix; and	nt of \$250.00 (Appeal Brief Fili 84427375 US); als and Interferences Under 37			
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ATTORNEY DOCKET No.: TRU-VISION-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

		§	
IN RE APPLICATION OF:		§	Examiner: Nasser Ahmad
	TED DEAN, ET AL.	§	
		§	
APPLICATION No.: 10/807,866		§	ART UNIT: 1772
		§	
FILED:	23 March 2004	§	
		§	
		§	
For: "	New and Improved Retail	§	
М	Terchandising Strip and Method	§	
fo	r Making Same"	§	

BRIEF TO BOARD OF PATENT APPEALS AND INTERFERENCES UNDER 37 CFR 41.37

Commissioner for Patents PO Box 1450 Alexandria, Virginia 22313-1450

Dear Sir:

The Notice of Appeal in the above identified application to the Board was filed June 14, 2007, appealing the Final Rejection of Claims 1, 2, and 4-13, dated January 19, 2007. The following information and arguments are believed to track the requirements of 37 CFR 41.37 (c).

1. Real Party In Interest

The real parties in interest are the named inventors, Ted M. Dean, residing at 309 West Alamo Street, Brenham, Texas 77833, and William R. Fuller, residing at Route 1, 180B, Somerville,

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Texas 77879.

2. Related Appeals and Interferences

None.

3. Status of Claims

The following set of Claims 1, 2, and 4-13 were all finally rejected under 35 USC 112 and are currently on appeal.

- 1. (Rejected)
- 2. (Rejected)
- 4-13. (Rejected)

4. Status of the Amendments

Claims 1, 2, and 4-13 were each amended on October 30, 2006 to call for a coating of the first side of a merchandising strip, covering the entire surface of said first side. The claims each already called for the second side to be uncoated. The Examiner has taken the position that the expression "covering the entire surface" (of the first side) has no support in the specification.

5. Summary of Claimed Subject Matter of Independent Claim 1

Claims 1, 2, and 4-13 have no elements directed to means plus function or step plus function contemplated under 35 U.S.C. 112.

Claim 1

Claim 1, the only independent claim, calls for a merchandising strip for displaying a plurality of discrete packages (potato chips, etc.), wherein the strip has a first coated side, and a second uncoated side. The uncoated side has a plurality of adhesive elements, adhered to the

uncoated side. The coated first side allows the strip to be rolled and easily unrolled because the adhesive elements will not adhere to the coated side.

6. Grounds of Rejection to be Reviewed on Appeal

Claims 1, 2, and 4-13

Each of these claims is rejected only under 35 USC 112, the Examiner alleging, in substance, that there is no support in the specification for the coating of the first side of the merchandising strip to cover the entire surface of the said first side.

7. Argument

Reconsideration is respectfully requested for Claims 1- 2 and 4-13, said claims having been rejected under 35 U.S.C. 112, the Examiner alleging that the language added to Claim 1 in the amendment filed on October 30, 2006, was based upon new matter. This basis for rejection is respectfully traversed.

During a telephone interview conducted on Tuesday morning, April 17th, 2007, among Examiner Nasser Ahmad, Mr. Ted Dean and the undersigned attorney for the applicants, there was a discussion of the fact that the accepted dictionary definition of the verb "coat" means that the coating is applied to the entire surface of the object being coated. As represented to the Examiner, this dictionary definition is found in the Oxford Dictionary, published by DK Publishing, Inc. having offices in London, New York, Sidney and Moscow and by the Oxford University Press, having offices in New York and Oxford. This particular dictionary bears a copyright of 1998.

On page 163 of that dictionary, the definition of "coat", when used as a verb, means to "provide with a layer or covering". On page 193 of that same dictionary, the definition of "cover" means to "occupy the whole surface of something". For the convenience of the Board, we have

MPEP, which reads as follows:

"By disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. The application may later be amended to recite the function, theory or advantage without introducing prohibited new matter. *In re Reynolds*, 443 F.2d 384, 170 USPQ 94 (CCPA 1971); *In re Smythe*, 480 F. 2d 1376, 178 USPQ 279 (CCPA 1973)."

Based upon the very clear language of the MPEP, and the related Court decisions, the specification has been being amended to call for the coated side to be coated in its entirety. It is respectfully submitted that this added language does not constitute new matter.

8. Claims Appendix

See attached Claims Appendix.

9. Evidence Appendix

See attached Evidence Appendix.

10. Related Proceedings Appendix

None.

SUMMARY

Accordingly, it is respectfully submitted that the specification, as originally filed, inherently supports the language of Claim 1, and that Claims 1-2 and 4-13 are in prima facie condition for allowance.

enclosed, in the Evidence Appendix, copies of the cover page of the dictionary, the back page showing the copyright date, and pages 163 and 193 of the dictionary with the relevant portions highlighted in yellow. Thus, it is respectfully submitted that the disclosure of having a coating on one side of the strip is an exact teaching of the coating being applied to the one side of the strip, in its entirety.

The original disclosure of the specification, the Abstract and the claims are repleat with statements concerning the fact that the coating on one side of the strip allows the plastic strip to be "easily rolled up and unrolled" (Claim 3 as originally filed, and now incorporated into Claim 1, lines 7 and 8 of the Abstract, and page 9, lines 11-24 of the specification).

Moreover, this feature of the invention, i.e. "Easily rolled up and unrolled," is simply not possible without the one side of the strip being coated, in its entirety. Any portion of the coated side having no coating, would stick to the adhesive on the second side of the plastic strip, and thus would prevent, or at least hinder the easy unrolling of the plastic strip.

The silicone coating applied to the one side of the plastic acts as a shield to preclude the adhesive strips from adhering to the adjacent plastic side of the strip. As with any shield, the shield should be co-extensive with the area to be protected. As but one example, one would not design a bullet-proof jacket, such as from Kevlar, having a hole in the jacket over where the heart resides in the chest. If one applies a primer coat of paint, the coating would not be applied to less than the entire surface being painted. For protection purposes, a coated side means just that. If the side were to be just partially coated, that is the language that would have been used.

The concept of the coating covering the entire side of the plastic strip adjacent to the side having the adhesive strips, involves not only common sense, good judgement and sound engineering practices, but also is a classic example of being inherent, addressed in Section 2163.07(a) of the

Date 13/87

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

		§	
IN RE APPLICATION OF:		§	EXAMINER: NASSER AHMAD
	TED DEAN, ET AL.	§	
		§	
APPLICATION No.: 10/807,866		§	Art Unit: 1772
		§	
FILED:	23 March 2004	§	
		§	
		§	
For: "	New and Improved Retail	§	
M	Ierchandising Strip and Method	§	
fe	or Making Same"	§	

BRIEF TO BOARD OF PATENT APPEALS AND INTERFERENCES UNDER 37 CFR 41.37

8. CLAIMS APPENDIX

1. (Previously Presented) A merchandising strip for displaying a plurality of discrete packages, comprising:

an elongated, narrow strip of plastic having a given width, and having a longitudinal axis, said strip of plastic having a first coated side, the coating on said first side covering the entire surface of such first side, and a second uncoated side, whereby said coated side allows said plastic strip to be easily rolled up and unrolled from a roll; and

a plurality of adhesive elements, each having a width less than said given width, laminated to said uncoated side of said strip of plastic, said adhesive elements being aligned along the longitudinal axis of said strip, and having a predetermined spacing between each two of said plurality of adhesive elements.

2. (Original) The merchandising strip according to Claim 1, wherein said strip of plastic is clear plastic.

- 3. (Canceled).
- 4. (Previously Presented) The merchandising strip according to Claim 1, wherein said coating on said first side is comprised of silicone.
- 5. (Original) The merchandising strip according to Claim 1, wherein said adhesive elements each have a circular configuration.
- 6. (Original) The merchandising strip according to Claim 1, wherein said adhesive elements each have a rectangular configuration.
- 7. (Original) The merchandising strip according to Claim 1, wherein said adhesive elements each have a square configuration.
- 8. (Original) The merchandising strip according to Claim 1, wherein said adhesive elements each have a triangular configuration.
- 9. (Original) The merchandising strip according to Claim 1, wherein said adhesive elements each have a pentagonal configuration.
- 10. (Original) The merchandising strip according to Claim 1, wherein said adhesive elements each have an oval configuration.
- 11. (Original) The merchandising strip according to Claim 1, wherein said adhesive elements each have a star configuration.
- 12. (Original) The merchandising strip according to Claim 1, wherein said strip has first and second ends and has a hole near one end of said strip, to allow said strip to be hung vertically for display.
- 13. (Original) The merchandising strip according to Claim 1, wherein said strip has first and

second ends and has first and second holes, one such hole being near each end of said strip, to allow said strip to be hung vertically for display without regard to the orientation of any such packages attached to said adhesive elements.

14-21. (Canceled).



ATTORNEY DOCKET No.: TRU-VISION-002

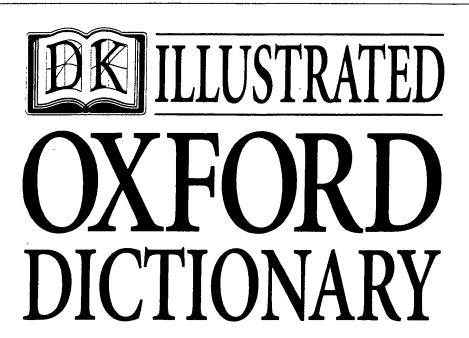
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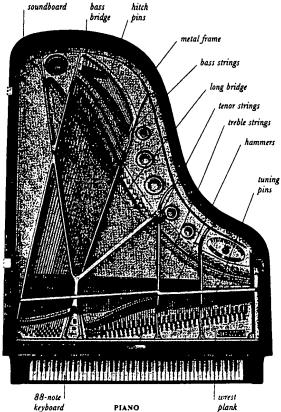
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IN RE APPLICATION OF:	§	EXAMINER: NASSER AHMAD
TED DEAN, ET AL.	§	
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	§	
FILED: 23 MARCH 2004	§	
	§	
	§	
FOR: "New and Improved Retail	§	
Merchandising Strip and Method	§	
for Making Same"	§	

BRIEF TO BOARD OF PATENT APPEALS AND INTERFERENCES UNDER 37 CFR 41.37

9. EVIDENCE APPENDIX

- 1. Ex. A Initial page of the OXFORD DICTIONARY
- 2. Ex. B Backside of Ex. A, showing a copyright date of 1998
- 3. Ex. C Definition in the OXFORD DICTIONARY of the word "coat"
- 4. Ex. D Definition in the OXFORD DICTIONARY of the word "cover"

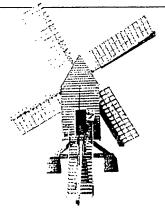




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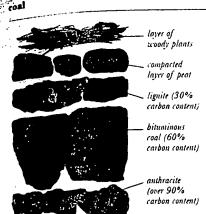
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COAL: DIFFERENT STAGES IN THE FORMATION OF COAL

coal /kol/ n. © v. • n. 1 A a hard black or blackish nick, mainly carbonized plant matter, found in underground seams and used as a fuel and in the manufacture of gas, tar, etc. > SEDIMENT. 2 a red-hot piece of coal, wood, etc., in a fire. • u 1 intr. take in a supply of coal. 2 tt. put coal into (an engine, fire, ctc.) o coals to Newcastle something brought or sent to a place where it is already plentiful. haul (or call) over the coals reprimand. DD coal y adj.

coalesce /kóales/ nint. 1 come together and form one whole. 2 combine in a coalition. DD co-a-lescence n. co-a-les-cent adj.

coal-face /kólfays/ n. an exposed surface of coal in a mine

coal-field /kôlfeeld/ n. an extensive area with strata containing coal.

coal-hole /kólhól/ n. a hole, as from a sidewalk, leading to a coal bin.

coalition /koalishan/ n. 1 Polit. a temporary alliance for combined action, esp. of distinct parties forming a government, or of nations. 2 fusion into one whole. an co-a-li-tion-ist n.

coal-man /kólmon/ n. (pl. -men) a person who carries or delivers coal.

coal tar n. a thick, black, oily liquid distilled from coal and used as a source of benzene.

coaming /kôming/ n. a raised border around the hatches, etc., of a ship to keep out water.

coarse /kawrs/ adj. 1 a rough or loose in texture or grain; made of large particles. b (of a person's features) rough or large. 2 lacking refinement or delicacy; crude; obscene (coarse humor). 3 rude; uncivil. 4 inferior; common. an coarsely adv. coarse ness n. coars ish adj.

coarnen /kawrson/ u.tr. & intr. make or become

coast /kosi/ n. & v. o n. 1 a the border of the land finar the sea; the seashore. b (the Coast) the Pacific coast of the US. 2 a a run, usu. downhill, on 4 bicycle without pedaling or in a motor vehicle without using the engine. b a toboggan slide or slope. • v.intr. 1 ride or move, usu. downhill, without use of power; freewheel. 2 make progress without much effort. 3 slide down a hill on a toboggan or other sled. o the coast is clear there is no danger of being observed or caught. a coast al adj. coaster /kostor/ n. 1 a ship that travels along the

coast from port to port. 2 a small tray or mat for a bottle or glass

Coast Guard /kost gaard/ n. the U.S. military entire that protects coastal waters, aids shipping and pleasure craft, and enforces maritime laws.

coast line /kostlin/ n. > the line of the seashore, csp. with regard to its shape (a rugged coastline).

coast-to-coast adj., adv. across an island or con-

coat /kni/ n. & n. outer garment with sleeves and often extending below the hips; an overcoat or jacket. 2 a an animal's fur, hair, etc. b Physial, a structure, esp. a membrane, enclosing or lining an organ, c a skin, rind, or husk, d a layer of a bulb, etc. 3 a a layer or covering, b a covering of paint, etc., laid on a surface at one time. • a.tr. 1 (usu. foll. by with, in) a apply a coat of paint, etc., to: provide with a layer or covering. b (as coated adj.) covered with. 2 (of paint, etc.) form a covering to. DD coat-ed adj. (also in comb.).

coat dress /kôtdres/ n. a woman's tailored dress resembling a coat.

coat hanger n. see HANGER2.

co-a-ti /kō-aatee/ n. (pl. coatis) any raccoonlike, flesh-eating mammal of the genus Nasua, with a long, flexible snout and a long, usu, ringed tail.

co-a-ti-mun-di /kô-aateemundee/ n. (pl. coatimundis) = costs.

coating /kôting/ n. a thin layer or covering of paint, etc.

coat ar mor n. coats of arms.

coat of arms n, the heraldic bearings or shield of a person, family, or corporation.

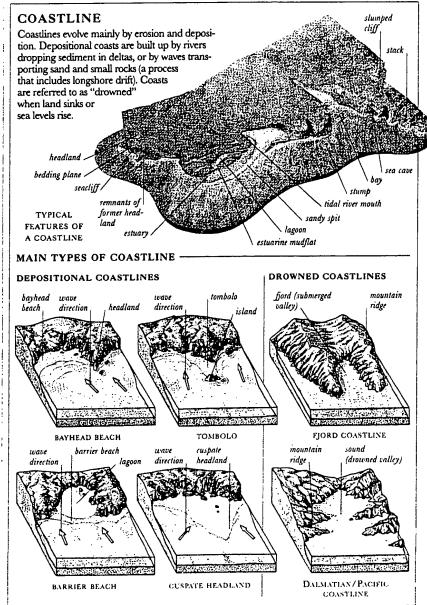
coat of mail a, a jacket covered with mail or composed of mail. > CHAIN MAIL

coat-tail /kôttayl/ n. 1 the back flap of a man's jacket or coat. 2 (in pl.) a the back skirts of a dress coat, cutaway, etc. b Polit. (of a party candidate) popularity such as to attract votes for other party candidates.

co-au-thor /kô-áwthor/ n. \mathcal{C}_{v} : • n. a joint author. • n.tr. be a joint author of.

coax /kōks/ v.tr. 1 (usu. foll. by into, or to + infin.) persuade (a person) gradually or by flattery. 2 (foll. by out of) obtain (a thing from a person) by coaxing. 3 manipulate (a thing) carefully or slowly. DD coaxer n. coax-ing-ly adv.

co-ax-i-al /kō-ákseeəl/ adj. 1 having a common axis. 2 Electr. (of a cable or line) transmitting by means of two concentric conductors separated by an insulator. a co-ax-i-al-ly adv.



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med 6 Med a sequence of medical treatment, etc. mest vision a course of antibiotics). 7 a line of conduct. Inhi: a continuous horizontal layer of brick, gone, etc., in a building, 9 a channel in which water flows, 10 the pursuit of game (esp. hares) with hounds, esp. grayhounds, by sight rather than went. 11 Naut. a sail on a square-rigged ship. • r. 1 in csp. of liquid run, csp. fast (blood coursed trough his cruis. 2 in (also absol.) a use (hounds) to hunt. b pursue hares, etc.) in hunting. a the course of nature ordinary events or procedure. in the course of during, in the course of time as time goes by: eventually, a matter of course the natural or expected thing. of course naturally; as it or was to be expected; admittedly. on (or off) course following (or deviating from) the desired direction or goal. run (or take) its course (esp. of an illnessi complete its natural development. no cours er n. in sense 2 of u).

court /kawrt/ n. & v. o n. 1 (in full court of law) a a judge or assembly of judges or other persons acting as a tribunal in civil and criminal cases. b = COURTRONM. 2 a an enclosed quadrangular area by games, which may be open or covered (tennis coart: squash court). b an area marked out for lawn urnis. etc. 3 a a small enclosed street in a town, having a yard surrounded by houses, and adjoining a larger street. b the name of a large house, block of apartments, street, etc. (Grosvenor Court). c a subdivision of a building, usu, a large hall extending to the ceiling with galleries and staircases. 4 a the establishment, retinue, and courtiers of a sovereign. b a sovereign and his or her councilors, constituting a ruling power. c a sovereign's residence. d an assembly held by a sovereign; a state reception. 5 attention paid to a person whose favor, har, or interest is sought (paid court to her). 6 a the qualified members of a company or a corporation. c a meeting of a court. • utr. 1 a try to win the affection or favor of (a person). b pay amorous attention to (courting couples). 2 seek to win (applause, fame, etc.). 3 invite (misfortune) by one's actions (you are courting disaster). D go to court take legal action. in court appearing as a party or an advo-cate in a court of law. out of court 1 (of a plaintiff) not entitled to be heard. 2 before a hearing or judgment can take place. 3 not worthy of consideration (that auggestion is out of court).

court card n. Brit. = FACE CARD.

courte-ous /kirterss/ adj. polite, kind, or considerate. Do courte-ous-ly adv. courte-ous-ness n. courte-san /kiwrtizán/ n. literary a prostitute, esp. one with wealthy or upper-class clients.

courte-sy /kártisce/ n. (pl. -ies) 1 courteous behavior. 2 a courteous act. n by courtesy by favor, not by right, by courtesy of with the formal prinsision of (a person, etc.).

courte sy light n. a light in a car that is switched on by opening a door.

court house /kawrthows/ n. 1 a building in which a judicial court is held. 2 a building containing the artministrative offices of a county.

courtier /kawrteear/ n. a person who attends or frequents a sovereign's court.

courtly /kawrice/ adj. (courtlier, courtliest)
1 polished or refined in manners. 2 obsequious.
3 punctilinus. 00 court-li-ness n.

courts-martial /käwrt maarshal/ n. & u. o n. (pl. courts-martial) a judicial court for trying members of the armed services. o utn. try by a court-martial.

court or der n. a direction issued by a court or a judge, usu, requiring a person to do or not do ownething.

court reporter n a stenographer who makes a stribatin record and transcription of the proceedings in a court of law.

controom /kawrtr@m, -room/ n. the place or mem in which a court of law meets.

tourt ship /kiwrtship/ n. 1 a courting with a view marriage. b the courting behavior of male

animals, birds, etc. c a period of courting. 2 an attempt, often protracted, to gain advantage by flattery, attention, etc.

court yard /káwrtyaard/ n. an area enclosed by walls or buildings, often opening off a street.

cous-cous /kooskoos/ n. ba type of N. African semolina in granules made from crushed durum wheat. 2 a spicy dish of this, usu, with meat or fruit added.

cous in /kúzən/ n. 1 (also first cousin, cous in-german, pl. cousins-german) the child of one's uncle or

couscous

aunt. 2 (usu. in pl.) applied to the people of kindred races or nations (our British cousins). DD cous-in-hood n. cous-in-ly adj. cous-in-ship n.

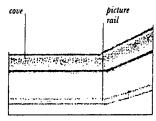
cou-ture /kootoor, -tvr/ n. the design and manufacture of fashionable clothes; = HAUTE COUTURE.

couturier /kootooree-ay, -ceor/ n. (fen. couturière /-recair/) a fashion designer or dressmaker.

covalent /kováylont/ adj. Chem. ▼ of or designating chemical bonds formed by the sharing of electrons by two atoms in a molecule. □□ covalence n. covalency n. covalen

co-va-lent bond n. Chem. a bond formed by sharing of electrons, usu. in pairs by two atoms in a molecule. DALKANE

cove /kov/ n. & u • n. 1 a small, esp. sheltered, bay or creek. 2 a sheltered recess. 3 Archit. ▼ a concave arch or arched molding, esp. one formed at the junction of a wall with a ceiling. • ut. Archit. 1 provide (a room, ceiling, etc.) with a cove. 2 slope (the sides of a fireplace) inward.



COVE

coven /kúvan/ n. an assembly of witches.

COV.e.mant /kúvɔnɔnt/ n. & u • n. 1 an agreement; a contract. 2 Law a a contract drawn up under a seal, esp. undertaking to make regular payments to a charity. b a clause of a covenant. 3 (Covenant). Bibl. the agreement between God and the Israelites (see ARK OF THE COVENANT). • u.h. & inh. agree, esp. by legal covenant. □ □ covenantal /-nánt'l/ adj. covenantor n. covenanter n.

cover /kúvor/ v. & n. • v.tr. 1 a (often foll. by with) protect or conceal by means of a cloth, lid, etc. b prevent the perception or discovery of; conceal (to cover my embarrassment). 2 a extend over; occupy the whole surface of (covered in dirt; covered with writing). b (often foll. by with) strew thickly or thoroughly (covered the floor with straw). c lie over; be a covering to (the blanket scarcely covered him). 3 a protect; clothe. b (as covered adj.) wearing a hat; having a roof. 4 include; comprise; deal with (the talk covered recent discoveries). 5 travel (a specified distance) (covered sixty miles). 6 Journalism a report (events, a meeting, etc.). b investigate as a reporter. 7 be enough to defray (expenses, a bill, etc.). 8 a refl. take precautionary measures so as to protect oneself (had covered myself by saying I might be late). b (absol.; foll. by for) deputize or stand in for (a colleague, etc.) (will you cover for me?). 9 Mil. a aim a gun, etc., at. b (of a fortress, guns, etc.) command (a territory). c stand behind (a person in the front rank). d protect (an exposed person, etc.) by being able to return fire. 10 (also

absol.) (in some card games) play a card higher than (one already played to the same trick). 11 (of a stallion, a bull, etc.) copulate with. . n. 1 something that covers or protects, esp.: a a lid. b the binding of a book. c either board of this. d an envelope or the wrapping of a mailed package (under separate cover), e the outer case of a pneumatic tire. f (in pl.) bedclothes. 2 a hiding place; a shelter. 3 woods or undergrowth sheltering game or covering the ground (see COVERT 11. 1). 4 a a pretense; a screen (under cover of humility). b a spy's pretended identity or activity: e Mil. a supporting force protecting an advance party from attack. 5 a place setting at table, esp. in a restaurant. D break cover (of game or a hunted person) leave a place of shelter, esp. vegetation. cover in provide with a roof, etc. cover one's tracks conceal evidence of what one has done. cover up 1 completely cover or conceal. 2 conceal (circumstances, etc., esp. illicitly) (also absol.: refused to cover up for them). from cover to cover from beginning to end of a book, etc. take cover use a natural or prepared shelter against an

cov-erage /kuvorij/ n. 1 an area or an amount covered. 2 Journalism the amount of press, etc., publicity received by a particular story, person, etc. 3 a risk covered by an insurance policy. 4 an area reached by a particular broadcasting station or advertising medium.

cover-all /kúvarawl/ n. & adj. on. 1 something that covers entirely. 2 (usu. in pl.) a full-length protective outer garment often zipped up the front. o atmb.adj. covering entirely (a coverall term).

cov er charge n. an extra charge levied per head in a restaurant, nightclub, etc.

cover girl n. a female model whose picture appears on magazine covers, etc.

covering /kuvaring/ n. something that covers, esp. a bedspread, blanket, etc., or clothing.

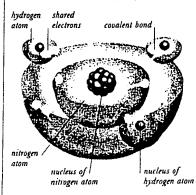
covering letter n. = cover LETTER.

cover let /kúvorlit/ n. a bedspread. cover let ter n. (also covering let ter) an explanatory letter sent with an enclosure.

cover story n. a news story in a magazine, that is illustrated or advertised on the front cover.

COVALENT

Covalent compounds are made up of molecules whose atoms are held together by covalent bonds. For example, an ammonia molecule is made up of three hydrogen atoms and one nitrogen atom. Each covalent bond consists of two shared electrons – one from the nitrogen atom and one from a hydrogen atom.



COVALENT BONDS IN AN AMMONIA MOLECULE (NH₃)